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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,768	01/12/2004	Anthony S. Ellsworth	10004.0001USD4	1250

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EXAMINER

LUBY, MATTHEW D

ART UNIT PAPER NUMBER

3611

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/755,768

Applicant(s)

ELLSWORTH ET AL.

Examiner

Matt Luby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-19 and 25-27 is/are rejected.
- 7) ☒ Claim(s) 20-24 and 28-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20040112
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 23 is objected to because of the following informalities: the words "break" (line 1) and "breaking" (line 2) are misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Klassen et al (U.S. Patent 5,553,881).

A bicycle comprising: a main frame (22, for example) comprising a seat tube (14) and a bottom bracket (24) configured to receive a pedal assembly, and a rear wheel suspension system coupled to the main frame, the rear wheel suspension system comprising: an upper rocker arm (310) comprising a forward end and a rearward end, the upper rocker arm being pivotably attached to the main frame with the forward end of the upper rocker arm located in front of the seat tube (shown in Figures 19 and 20); a lower rocker arm (314) comprising a forward end and a rearward end the lower rocker arm being pivotably attached to the main frame above the bottom bracket with the forward end of the lower rocker arm located in front of the seat tube (shown in Figures

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19 and 20); and a seat stay (316) comprising an upper end and a lower end portion, the seat stay being pivotably attached to the rearward end of the lower rocker arm at the lower end portion of the seat stay, and pivotably attached to the rearward end of the upper rocker arm at a location between the upper end and lower end portion of the seat stay (shown in Figures 19 and 20); wherein the main further comprises a top tube (shown but not referenced by a numeral in Figures 19 and 20), and the seat tube is a unitary (single) tube extending from the top tube to the bottom bracket (shown in Figures 19 and 20), wherein the seat tube is substantially linear (it is shown as straight in Figures 19 and 20); wherein the upper rocker arm is pivotably attached to the seat tube at a location between the forward end and the rearward end of the upper rocker arm (the upper rocker arm, 310, is pivotably attached at the larger circle shown thereon in Figures 19 and 20); wherein the upper rocker arm is substantially linear from the forward end to the rearward end (upper rocker arm, 310, is straight as shown in Figures 19 and 20);

4. Claims 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Klassen et al (U.S. Patent 5,553,881).

Klassen et al. disclose a rear wheel suspension system for a bicycle, comprising an upper rocker arm (310) comprising a forward end, a rearward end, and a main frame attachment element (the large circle shown in Figure 19 on 310) located between the forward end and the rearward end of the upper rocker arm; a lower rocker arm (314) comprising a forward end, a rearward end, and a main frame attachment element (330 for example) located between the forward end and the rearward end of the lower rocker

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arm; and a seat stay (316) comprising an upper end and a lower end portion, the seat stay being pivotably attached to the rearward end of the lower rocker arm at the lower end portion of the seat stay, and pivotably attached to the rearward end of the upper rocker arm at a location between the upper end and lower end of the seat stay (shown in Figures 19 and 20); wherein the upper rocker arm main frame attachment element is located closer to the forward end of the upper rocker arm than the rearward end of the upper rocker arm (shown in Figures 19 and 20) and wherein the upper rocker arm is substantially linear from the forward end to the rearward end (shown in Figures 19 and 20, i.e., upper rocker arm, 310, is not circular).

Allowable Subject Matter

5. Claims 20-24 and 28-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441. The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matt Luby
Examiner
Art Unit 3611



M.I.
September 3, 2004